

A climate skeptic in Virginia finds an ear in congress

By **JOHN COLLINS RUDOLF**

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RICHMOND, Va. >> For nearly a year, Kenneth T. Cuccinelli II, Virginia's crusading Republican attorney general, has waged a one-man war on the theory of man-made global warming.

Invoking his subpoena powers, he has sought to force the University of Virginia to turn over the files of a prominent climatology professor, asserting that his research may be marred by fraud. The university is battling the move in the courts.

At the same time, Cuccinelli is suing the Environmental Protection Agency over its ruling that carbon dioxide and other global warming gases pose a threat to human health and welfare, describing the science behind the agency's decision as "unreliable, unverifiable and doctored."

Now his allegations of manipulated data and scientific fraud are resonating in Congress, where Republican leaders face an influx of new members, many of them Tea Party stalwarts like Cuccinelli, eager to inveigh against the body of research linking man-made emissions to warming.

"There's a huge appetite among the rank-and-file to raise fundamental questions about the underlying science," said Michael McKenna, a Republican strategist and energy lobbyist.

Responding to those concerns, the new Republican majority has introduced legislation that would strip federal regulators of their power to police the industrial emissions that contribute to climate change. But party leaders, treading warily, have cast their arguments against regulation largely in terms of economic consequences, playing down the prospect of major hearings to examine the scientific basis of human-caused warming.

Even dedicated opponents of climate action concede that hauling climate scientists before Congress and

challenging their findings could easily backfire, as many representatives lack a sophisticated grasp of climatology and run the risk of making embarrassing errors.

"It's a trap for a lot of members," said Marc Morano, a former Republican staff member on the Senate Environment and Public Works committee and publisher of Climate Depot, a website that advances the arguments of climate skeptics. "They're apt to make mistakes."

Meanwhile, a planned investigation by Rep. Darrell Issa of California into alleged instances of manipulation and fraud by climate scientists — broadly similar to those cited by Cuccinelli in his legal complaints — has been indefinitely postponed.

Yet as the Republican leadership puts the brakes on a climate science confrontation, Cuccinelli has forged ahead.

In the process, his critics say, he has not only made mistakes, but also twisted facts to bolster his case against the climatologist, Michael E. Mann, now a professor at Pennsylvania State University.

Sherwood L. Boehlert, a retired Republican congressman from New York and a former chairman of the House Science Committee, is among those who have sharply criticized Cuccinelli's tactics.

"I find no logical explanation for spending taxpayer dollars on this politically designed, headline-grabbing pursuit of his," said Boehlert, whose panel in 2006 investigated nearly identical charges by climate skeptics that Mann had falsified results but found no

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evidence of wrongdoing.

More than 800 professors and scientists in Virginia have petitioned the attorney general to abandon his pursuit of Mann. As the university fights the investigation, a state judge has ruled substantially in its favor although a final decision has yet to be made.

The case has also been divisive in Virginia politics, with the Democrat-controlled State Senate voting on Feb. 3 to strip Cuccinelli of the power to investigate future instances of academic fraud at public universities. The following week, senators passed a budget amendment requiring the attorney general to keep detailed expense records on projects that exceed 100 work hours — a proposal aimed at forcing Cuccinelli to open the books on his investigation of Mann.

Both measures passed easily and with the support of Republicans, including the Senate minority leader, though neither is expected to clear the Republican-held State House.

Cuccinelli seems unfazed by the backlash. "We'll see the documents," he said confidently in an interview in his Richmond office, referring to Mann's e-mails and computer files.

Although cast by his foes as an angry ideologue, Cuccinelli, 42, was amiable and upbeat in discussing the litigation. He ruefully acknowledged the backlash against his investigation of Mann. "I can tell you that out of all the things we've done in this first year in office, none has attracted more vitriolic assault," he said.

He described the inquiry as a legitimate function of his office. "I would expect any attorney general sitting in this chair to do the same thing," he said.

Cuccinelli's conservative views make him no stranger to controversy. Before his election as attorney general in November 2009, he served nearly eight years in the State Senate, where he was known for his hard-right stances on illegal immigration, same-sex marriage, gun control and abortion and for clashing with moderates within his party.

Shortly after taking office in January 2010, he sued the Obama administration over the health care overhaul, which Cuccinelli called unconstitutional. A federal judge ruled partly in his favor, catapulting him into the national spotlight, although the decision was quickly appealed.

On climate change, Cuccinelli said he had begun to pay serious attention to the issue only recently, after momentum began to grow behind legislation to establish a national cap-and-trade system for greenhouse gases. He did "basic reading," he said, and became convinced that scientific proof linking industrial emissions to warming was lacking.

His doubts deepened in late 2009, he said, when a large cache of e-mails between scientists from the Climate Research Unit of the University of East Anglia, in Britain, were illicitly published online.

Climate change skeptics seized on the e-mails as proof that the science linking man-made emissions to warming was doctored and exaggerated, and skeptical bloggers dubbed the episode Climategate. Multiple investigations, including one by the British House of Lords, cleared the researchers involved of scientific wrongdoing.

Despite those conclusions, Cuccinelli asserted in the interview and in response to written questions that the contents of the leaked e-mails indicated a conspiracy among top scientists to exaggerate carbon dioxide's effect on global temperatures. "They suggest knowledgeable deception on the part of a number of folks," he said.

"It's when you introduce the evidence of some people being deceptive that you have the basis for the concerns about our state tax dollars and state institutions being misused," he said. "It doesn't happen without the Climategate e-mails."

Cuccinelli maintains that he is merely investigating potential financial abuses, not challenging Mann's

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scientific conclusions. But the state's legal briefs in the case are at their essence a critical assessment of Mann's research, which has centered on the historical reconstruction of global temperatures.

And even prominent climate skeptics challenge the attorney general's contention that he is not pursuing the climatologist over his scientific work. At a May 2010 conference bringing together leading skeptical researchers, for instance, Stephen McIntyre, a retired Canadian mining engineer and amateur statistician whose critical analysis of Mann's research and demands for data from British scientists were at the heart of the e-mail scandal, denounced the Virginia inquiry.

"I strongly disagree with Cuccinelli's recent investigation of potential financial abuse," McIntyre said. "Regardless of what one may think of the quality of Mann's work, he has published diligently."

The investigation has also run into legal hurdles, with a state judge hearing the case questioning the strength of evidence against Mann.

"The nature of the conduct is not stated so that any reasonable person could glean what Dr. Mann did to violate the statute," Judge Paul M. Peatross Jr. wrote in an August ruling. The judge did not dismiss the case, however, allowing the state to amend and refile its subpoena.

Climate experts also sharply question claims of fraud cited in Cuccinelli's lawsuit against the EPA.

Most notably, citing an independent 2009 report, the State of Virginia's complaint asserts that climate scientists at the University of East Anglia, the source of the leaked emails — doctored Russian temperature data to exaggerate warming. Because the Climate Research Unit provides basic temperature data to scientists around the world, any corruption of the data seriously undermines the theory of man-made warming, the suit argues.

Yet Alexander Bedritskiy, president of the World Meteorological Organization and the top climate change adviser to President Dmitry Medvedev of Russia, said that the Russian report was thoroughly discredited by top scientists in his country more than a year ago.

"Any scientific discussion on the results, pretending to be science-based, does not make sense," Bedritskiy said in an e-mail.

He also noted that the author of that report, Andrei Illarionov, is not a climate scientist but an economist with the Cato Institute, a conservative research group in the United States.

Cuccinelli could not say how he had verified the accuracy of the report, which is written in Russian, but said that his legal complaint had been "heavily researched." The research did not consist of consultations with scientists, however, he said.

"We have to have a certain understanding of our context to operate, but that doesn't require expert witnesses," he said.

The EPA lawsuit, with dozens of co-plaintiffs and the full force of the federal government opposing it, is expected to result in a highly complex court battle potentially spanning several years — a prospect Cuccinelli appears to relish.

A wide range of legal experts said the suit had a low chance of success. "It's the legal equivalent of the 'Hail Mary' pass," said Michael B. Gerrard, a professor at Columbia Law School and an authority on climate change law.

Political experts further questioned whether another drawn-out battle on climate change science will appeal much to voters.

"There is a significant portion of the Virginia public that sees these issues as distractions from what the attorney general should be focusing on," said Mark J. Rozell, a professor of political science at George Mason University.

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"There are many people who are deeply uncomfortable with the crusader-type style that he is cultivating," he said.

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